

APPLICANTS:
Michael and Mary Riley

REQUEST: A variance to construct a sunroom within the required rear yard setback

HEARING DATE: June 9, 2004

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5422

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Michael and Mary Riley

LOCATION: 421 Fox Catcher Road, Hunters Run, Bel Air
Tax Map: 56 / Grid: 2E / Parcel: 581 / Lot: 47
First Election District

ZONING: R2 / Urban Residential/Conventional with Open Space District

REQUEST: A variance, pursuant to Section 267-36B, Table V, of the Harford County Code, to allow an addition within the required 35 foot rear yard setback.

TESTIMONY AND EVIDENCE OF RECORD:

Michael Riley, Applicant, testified that his request was for a variance to construct a 16 foot by 18 foot sunroom to replace an existing deck. Mr. Riley stated that his lot sloped sharply uphill from the house to the rear lot line, and also downhill from left to right across the lot. Partially as a result of this unusual topography, he has a water problem which the construction of a sunroom at the proposed location would help alleviate. Mr. Riley stated that a sunroom is a very common addition in his neighborhood. At least fifteen (15) other homes have similar sunrooms in his subdivision.

Mr. Riley indicated that there is a large wooded lot to the rear of his property, and accordingly there would be no impact to that property if the variance were granted. He has discussed the proposed variance with his neighbors on either side, and neither have any objections. The requested sunroom would impact approximately 6 feet into the required 35 foot rear yard setback being, as a result, approximately 29 feet from the rear yard lot line. The sunroom would have glass windows, and a shingle roof which would match the existing structure. It would be constructed in the 16 foot by 18 foot footprint of the existing deck.

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Next testified Anthony McClune of the Harford County Department of Planning and Zoning. Mr. McClune, in reiterating the findings of the Staff Report, indicated that the property is unique because of its unusual topography. A water drainage problem exists on site, which the construction of the sunroom would help. Mr. McClune does not feel there would be any adverse impact to the neighborhood because of the topography, and he does not believe that any additional landscaping would be necessary.

There was no testimony or evidence presented in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
 - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
 - (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

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FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The testimony of the Applicant, Mr. McClune of the Harford County Department of Planning and Zoning, and the photographs in the file (see Attachment 10 and 11 to Staff Report), indicate the property is unique in that its topography greatly impacts the ability of the Applicants to fully utilize their backyard. The yard drastically falls from left to right, and rather precipitously rises from front to back. It is apparent that water could be a problem on the subject property, as testified to by the Applicant.

For the above reasons it is found that the subject property is unique and creates a practical difficulty. The practical difficulty is the inability of the Applicants to utilize in a functional way their back yard, without the proposed construction. In fact, the sunroom would do nothing more than take the place of an existing deck and would, for that reason, encroach no closer into the rear yard lot setback line than does the existing deck.

There would be no adverse impact to the neighbors or neighborhood. The proposed sunroom is similar to others in size and shape within the subdivision.

CONCLUSION:

For the above reasons, it is recommended that the requested variance be granted.

Date: June 29, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner